

PART 1 - PUBLIC

Decision Maker: **Children and Young People Portfolio Holder**

Date: **For Pre-Decision Scrutiny by the Children and Young People PDS Committee on 15 June 2010**

Decision Maker: **Executive**

Date: **16 June 2010**

Decision Type: Non-Urgent Executive Key

TITLE: THE TRANSFER OF 16-19 FUNDING AND COMMISSIONING FROM THE LEARNING AND SKILLS COUNCIL TO THE LOCAL AUTHORITY : UPDATE

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Chief Officer: Gillian Pearson, Director of Children and Young People Services

Ward: Boroughwide

1. Reason for report

1.1 To update the Executive Member for Children and Young People on the 16-19 strategic commissioning requirements and funding responsibilities transferred from the Learning and Skills (LSC) to the Local Authority from 1 April 2010. The report also outlines the role of the Council within these new responsibilities and set out in the National Commissioning Framework and financial guidance provided by the Young People Learning Agency.

2. **RECOMMENDATION(S)**

2.1 That the Executive and the Portfolio Holder for Children and Young People note the statutory arrangements for 16-19 Commissioning following the transfer of responsibility from the Learning and Skills Council to Local Authorities from April 2010.

2.2 The Executive Member for Children and Young People is asked to endorse the proposed process and indicative timescale for preparation of the Bromley Post-16 Commissioning Plan for 2011/2012 for which his approval will be sought in November 2010.

2.3 That the Executive recommends to Council that the Children and Young People budget be adjusted to reflect the 2010/11 payment responsibilities of £47m offset by a corresponding increase in YPLA funding.

Corporate Policy

1. Policy Status: New policy
 2. BBB Priority: Children and Young People Children and Young People Plan
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Financial

1. Cost of proposal: Estimated cost £47m in 2010/11 financial year.
 2. Ongoing costs: Recurring cost Determined annually
 3. Budget head/performance centre: Learning and Achievement (14-19 Strategy)
 4. Total current budget for this head: N/A
 5. Source of funding: Young Peoples Learning Agency (YPLA)
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Staff

1. Number of staff (current and additional) – 5FTE
 2. If from existing staff resources, number of staff hours – Following the dissolution of the Learning and Skills Council, the equivalent of 5FTE posts and associated funding (£283k) was received in Revenue Grant.
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Legal

1. Legal Requirement: Apprenticeships, Skills, Children and Learning (ASCL) Act 2009
 2. Call in: Call-in is applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected) - 8,000 16-18 year olds
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A
2. Summary of Ward Councillors comments:

3. COMMENTARY

The New 16-18 Strategic Commissioning Duties

- 3.1 Under the Apprenticeships, Skills, Children and Learning (ASCL) Act 2009, the Council is now responsible for securing sufficient high quality education and training for all young people aged 16-18 and learners aged 19-25 with learning difficulties and disabilities (LLDD). A detailed report on how the transfer of duties affect London authorities was considered by the Children and Young People Portfolio Holder at his meeting on 26 February 2009 (DCYP09030) and a briefing paper (Briefing 001/10) circulated to Members on 22 April 2010.
- 3.2 The National Commissioning Framework, issued by the Young People Learning Agency (YPLA) as statutory guidance on 1 April 2010, provides the necessary information for the Council to prepare for and implement its role as lead commissioner for 16-18 places on an annual basis. A copy of the document is available in the Members' room.
- 3.3 The Council's new responsibilities outlined in the National Commissioning Framework include:
- commissioning to meet the learning needs of:
 - (1) resident young people 16-18 (including advocacy for residents to travel to learn);
 - (2) all who learn in the Council's area (including those with learning difficulties and young offenders);
 - (3) and from 2011/12, it is anticipated that the Council will have responsibility for commissioning places in Independent Specialist Providers hosted in the borough - i.e. Nash College.
 - intervention, challenge and support on achievement and retention of young people in School Sixth Forms;
 - contracting and paying Further Education and Adult Colleges for 16-18 provision, Work Based Learning and making payment to School Sixth Forms. (Apprenticeships for 16-18 year olds will be contracted and managed by the Skills Funding Agency);
 - financial assurance and audit associated with this funding in School Sixth Forms;
 - competitive tendering for new post 16 provision (if appropriate).
- 3.4 In order for the Council to be able to undertake its duties in the 2011/12 academic year, there is a clear planning process and timeline within the National Commissioning Framework (see Appendix 1). During Autumn 2010, the CYP 16-19 Commissioning team will present the borough's Commissioning Statements to the CYP Portfolio Holder for approval before this is submitted to the YPLA (November 2010).
- 3.5 The LA's Commissioning Statements for 16-18 learner provision will detail the planning priorities for 2011/12 which have been informed by local priorities and agreed by the Local Authority following advice from the Bromley 14-19 Partnership. They will take into account the national and regional strategic priorities.
- 3.6 The Commissioning Statements will be shared with providers to ensure they are preparing to work towards the borough's priorities. There is a clear link between commissioning and provider quality. Under the National Commissioning Framework for 2011/12, LA's will be able to use available performance evidence to determine where there are areas of weakness or of particular strengths to influence the expansion of good provision or decommissioning of poor provision.

How the Funding for Post-16 provision (schools, colleges, work based providers) is calculated

- 3.7 The first stage in agreeing funding for an institution is to agree the “learner numbers” which is based on the previous year’s recruitment of students. This is a national process and accounts for 99% of the associated funding.
- 3.8 To ensure the link between nationally available funding and actual student number recruited and aspiration of growth of a provider, the allocation of any additional learner places is arrived at by a combination of historical recruitment trends, agreed capital developments, negotiated growth (based on local, regional and national priorities), and demographic trends. In this process the LA has influence on which growth requests it will support through a business plan submitted to the Regional Planning Group which determines the distribution of any additional learner places in accordance with national priorities.
- 3.9 Funding per place is calculated by a nationally set formula which takes into account each provider’s success rate; deprivation factor; type of programmes on offer multiplied by a nationally set funding rate per learner. Additional funding for learner support is calculated on the basis of the prior GCSE achievement in English and Maths of the learners in the year group.
- 3.10 Once the number of places to be proposed across the borough has been agreed, the Bromley Commissioning Plan is submitted to the London Regional Planning Group (LRPG) for moderation within the total funding envelope for London set by the YPLA. The LRPG is required to ensure overall coherence between individual borough plans through an agreed London-wide strategic vision which assists local authorities in making commissioning decisions. The LRPG will also be required to give assurance to the YPLA that local plans have been regionally endorsed and meet the YPLA requirements, as set out in the National Commissioning Framework.
- 3.11 With respect to commissioning apprenticeships, the Local Authority's 16-19 commissioning plan will need to identify the number and type of apprenticeship places for its resident learners and will work with the National Apprenticeship Service (NAS) to make this assessment. The Skills Funding Agency, on behalf of NAS, will discuss with apprenticeship providers their contribution to providing these apprenticeship places and will agree contracts. NAS will be responsible for payment and performance management of providers, but will deliver this function through a shared-services arrangement with the Skills Funding Agency. Through this arrangement, NAS will have financial and delivery accountability for meeting the agreed apprenticeship provision for the borough.

The Payment and Assurance Arrangements

- 3.12 On 1 April 2010, the Council became responsible for the transfer of funding allocated by YPLA, performance management and payment of existing LSC contracts in the current academic year up to 31 July 2010 and in accordance with the National Commissioning Framework thereafter. The YPLA issued Financial Guidance for the initial period outlining the Council’s financial responsibilities for providers. The document indicates that much of this current framework will continue in the final guidance for future years yet to be published. A copy of the document is available in the Members’ room.

- 3.13 Under the new arrangements the performance management including quality, audit and financial assurance of School Sixth Forms resides with the Local Authority. The Local Authority will, as now, have the power to intervene if provision is weak or failing. For FE colleges, the Adult Education College and Work Based Learning providers this responsibility resides with the Skills Funding Agency. A joint audit code has been developed which will provide mutual assurance.
- 3.14 The Council's payment responsibility is that of a banker. Funding is received from the YPLA for all providers within the borough and distributed to them in accordance with the agreed allocations.
- 3.15 Approval is sought from the Executive for this funding to be included in the Children and Young People budget thus allowing for the novated payments to July 2010 and payments between August 2010 and July 2011 to be made within the National Commissioning Framework timescales (see Appendix 2 and 3 for payment details)

The Challenges in Undertaking the New Responsibilities

- 3.16 The transfer of responsibility for the commissioning and funding of 16-19 education and training to local authorities will enable the Council to:
- better match the breadth and relevance of the curriculum and learning opportunities to local and regional economic development priorities;
 - ensure that learning provision for vulnerable young people, including those in care, with LLDD (up to the age of 25 for those with statements) and those in the youth justice system, is commissioned in ways which maximise their potential and improve outcomes.
- 3.17 The Machinery of Government Changes (DCYP09030) recognised that local authorities would need sufficient resources to deliver the new responsibilities and this cannot be met within existing staffing levels. Five posts, or equivalent resources, were transferred from the LSC to the Council under TUPE on the 1 April 2010. On the 31 March 2010, the Executive agreed that the additional Area Based Grant supporting these posts should be added to the 2010/11 CYP budget. Three of the posts have incumbents and arrangements are in train to fill the two vacancies.
- 3.18 It is recognised by the YPLA that under the current National Commissioning Framework local authorities remain constrained by national priorities and the national funding formula and do not have a free reign over all commissioning decisions. The Local Authority will continue to lobby for greater local decision making in the interests of its young people, providers and local economy.

4. POLICY IMPLICATIONS

- 4.1 Improving outcomes for children and young people in the Borough is a key theme for the Council within 'Building a Better Bromley'. The Children and Young People Plan 2009-11 outlines the needs and priorities for the Bromley Children and Young People Trust to ensure that the outcomes of children and young people are improved. The change is introduced by the ASCL Act, including the transfer of LSC responsibilities for 16-19 commissioning provides the Council with opportunity to improve the outcomes for young people through its post-16 commissioning plan.

- 4.2 The new system will help the Local Authority to achieve a number of key outcomes:
- to lay the foundations for the successful raising of the participation age to 18 from 2015;
 - to make sure that the right provision is in place, allowing every young person to access their entitlement to a broad and relevant choice of learning opportunities; and
 - to provide opportunities for every young person to participate in learning and avoid having any young person suffer the long term effects of not being in education, employment or training.
- 4.3 Effective commissioning of post-16 provision will be a central plank from which the Children and Young People Services will continue to work with its partners to improve the lives of children and young people in the Borough through the delivery of better, joined up services that provide value for money.

5. FINANCIAL IMPLICATIONS

- 5.1 In the initial four month period, the Council will receive £16m; £10m of this will be sent to schools to fund School Sixth Forms, and the remaining £6m will be sent to the FE colleges and other external providers of 16-18 services. Extrapolating the £16m for a whole financial year, the amount received by Bromley will be around £47 million. Commissioning decisions at a national level will determine the actual figure received and distributed.
- 5.2 Funding is received and distributed in monthly instalments. YPLA have issued a detailed timetable specifying the dates when they will transfer funding to the Council, and in turn when the Council must make the payments to the individual providers. All funding is received in advance of distribution.
- 5.3 The duties assumed in commissioning and in distributing the funds are determined by statute under a national formula and so are not discretionary. This being so, there are no funding risks beyond those entailed in any management arrangement. As with all other activities, these are under the Financial Procedures and other governance arrangements.
- 5.4 Unlike the Dedicated Schools Grant (DSG), any unused balances revert to source (YPLA) rather than being carried forward.
- 5.5 Because of the Local Authority's 'banker' role, it is recommended that the 2010/11 gross budget for CYP should be increased to reflect sums distributed to external providers, offset by a corresponding increase in YPLA funding. The "equal and opposite" adjustments to the budget will be circa £18m. Other councils have confirmed that they are making similar arrangements to adjust budgets.
- 5.6 In addition to the funding detailed in the Appendices, £283,000 has been included in the Children and Young People budget for the posts described in paragraph 3.17.

6. LEGAL IMPLICATIONS

- 6.1 Under the Apprenticeships, Skills, Children and Learning (ASCL) Act 2009, the Council is responsible for securing high quality education and training for all young people aged 16-18 and those aged 19-25 with a learning difficulty assessment.

7. PERSONNEL IMPLICATIONS

- 7.1 Five posts transferred from the LSC to the Council under TUPE on the 1 April 2010. On the 31 March, the Executive agreed that the additional Area Based Grant supporting these posts should be added to the 2010/11 CYP budget. Three of the posts have incumbents and arrangements are in train to fill the two vacancies.

Non-Applicable Sections:	N/A
Background Documents: (Access via Contact Officer)	DCYP09030 - Machinery of Government Changes (MOG) – Transfer of 16-19 Funding from the Learning and Skills Council (LSC) to Local Authorities Briefing 001/10 - The Transfer of Funding Responsibilities from the Learning and Skills Council to Bromley

**POST-16
SUMMARY OF THE 2011/12 COMMISSIONING PROCESS**

Date	Action
May 2010	Strategic Analysis will be provided by the YPLA to supplement the local authority's own data and intelligence.
June/July 2010	Local Authority review of 14-19 plan and development of interim local commissioning statement.
October/November 2010	DCSF provides the YPLA with the Annual Grant letter setting out the funds available and any specific requirements in terms of overall learner numbers and any planning assumptions/requirements.
October/November 2010	National commissioning statement produced by the YPLA in response to the grant letter, setting out the national commissioning environment in which local authority commissioning should operate, based on the grant letter received from DCSF.
November 2010	Regional commissioning statement prepared by Regional Planning Group (RPG), informed by the regional development agency (RDA) and the National Apprenticeship Service (NAS) and providing regional economic, learning and skills context.
November 2010	Approval by the Children and Young People Portfolio Holder of local commissioning statements that detail the planning priorities for 2011/12, informed by the 14-19 plan, taking into account national, regional and local-level strategic priorities.
January 2011	Updating Apprenticeship demand undertaken by the National Apprenticeship Service and the Local Authority for procurement by the Skills Funding Agency.
February 2011	Apprenticeship aggregation from local commissioning plans.

PROVIDER PAYMENTS FOR 2009/10 ACADEMIC YEAR

Young People's Payment Summary	2010 Payment Profile				
	April	May	June	July	Total
Bromley Adult Education College	£3,573	£3,299	£2,730	£1,615	£11,217
Bromley College of Further and Higher Education	£1,081,577	£998,910	£826,684	£489,120	£3,396,291
Orpington College of Further Education	£818,163	£755,658	£625,565	£369,441	£2,568,827
	£1,903,313	£1,757,867	£1,454,979	£860,176	£5,976,335

Schools Sixth Form Summary	2010 Payment Profile				
	April	May	June	July	Total
Bromley Schools	£2,561,165	£2,561,165	£2,561,165	£2,561,176	£10,244,671
	£2,561,165	£2,561,165	£2,561,165	£2,561,176	£10,244,671

Entry to Employment Payment Summary	2010 Payment Profile				
	April	May	June	July	Total
Bromley London Borough Council	£1,218	£1,125	£931	£551	£3,825
Springboard Bromley Trust	£25,693	£23,731	£19,635	£11,624	£80,683
N.T.S. Limited (London South)	£8,469	£7,823	£6,472	£3,831	£26,595
N.T.S. Limited (London West)	£11,268	£10,408	£8,611	£5,098	£35,385
	£46,648	£43,087	£35,649	£21,104	£146,488

PROVIDER PAYMENTS FOR 2010/11 ACADEMIC YEAR

Young People's Payment	2010/11 Total Payment
Bromley Adult Education College	£27,170
Bromley College of Further and Higher Education	£9,915,688
Orpington College of Further Education	£5,473,689
TOTAL	£15,416,547

Schools Sixth Form	2010/11 Total Payment
Bromley Schools	£29,328,941

Entry to Employment Payment	2010/11 Total Payment
Springboard Bromley Trust	£406,828
N.T.S. Limited	£319,788
TOTAL	£726,616

TOTAL PAYMENTS	£45,472,104
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